

A restriction requirement has been made between the claims representative of Figs. 1 and 3A-C as Group I; and, Fig 2 as Group II.

Claims 1-9, 11-16 and 20 are representative of Group I, Figs. 1 and 3A-C. Applicant provisionally elects these claims with traverse. Applicant elects the specie of Claim 1, which is also generic and as depicted in Fig. 1.

Claims 10 and 17-19 are representative of Group II, Fig. 2.

Applicant asserts that Claims 1-8, 11-14 and 20 are generic to Group I and Group II. Because several of the independent claims are generic, Applicant asserts that the restriction requirement is inappropriate. Applicant also asserts that the claims of Group I and Group II would have the same field of search. Applicant notes that the examiner has made no showing of independence and distinctness.

The examiner alleges that Claim 6 is generic. The only way that Claim 6 could be deemed to be generic is if the examiner alleges that "cylindrical sidewalls" as opposed to "sidewall" constitutes some restrictable subject matter. However, if that is the basis of restriction, then Claim 6 represents a specie not a genus. If differing sidewall geometry was the examiner's thought process, it was not made clear by distinguishing Figs. 1 and 3A-C from Fig. 2, where the primary distinguishing feature between those groups of drawing depictions is not the sidewall geometry, but the choice of which of the diptube and the level sensor is axially central in the container, while the other is at an angle to the axially central component. For example, note the distinction between Claims 9 and 10.

Applicant inferred that the restriction was between the subject matter of Claims 9 and 10 as depicted in the drawings.

If the examiner meant to make a restriction between "sidewalls" and "cylindrical sidewalls", then Applicant provisionally elects Claims 1-5, 7-8, 11-13 and 20 with traverse, which presumably are representative of Figs. 1 and 3A-C.

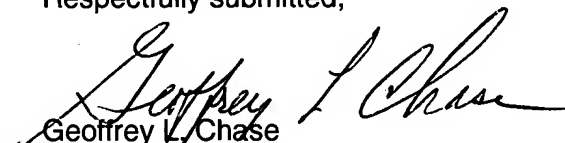
Under this theory of restriction, Claims 1-5, 7-8, 11-13 and 20 are representative of Group I, Figs. 1 and 3A-C. Applicant provisionally elects these claims with traverse. Applicant elects the specie of Claim 1, which is also generic and as depicted in Fig. 1.

Claims 6, 9-10 and 14-19 are representative of Group II, Fig. 2.

However, Claims 1-5, 7-8, 11-13 and 20 are in fact generic, because they recite "sidewall", which is generic to "cylindrical sidewall". Applicant traverses this restriction also because it will not involve a separate search or classification and no showing of independent and distinctness has been made. Applicant elects the specie of Claim 1, which is also generic and as depicted in Fig. 1.

Applicant asserts that the restriction requirement is not clear, but Applicant has made a good faith effort to respond under either apparent theories of restriction. Applicant further asserts that restriction is not proper here for the reasons state above under both theories of restriction and that the examiner would not be under a burden or require extra searching if the restriction were removed, as it should be.

Respectfully submitted,

  
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